



City of Rowlett

Official Copy

Ordinance: ORD-032-13

4000 Main Street
Rowlett, TX 75088
www.rowlett.com

AN ORDINANCE OF THE CITY OF ROWLETT, TEXAS, AMENDING CHAPTER 38 ("MUNICIPAL COURT") OF THE CODE OF ORDINANCES, CITY OF ROWLETT, TEXAS, TO AMEND SECTION 38-10, CREATING THE OFFENSE OF "FAILURE TO APPEAR" APPLICABLE TO CITATIONS ISSUED BY CITY PERSONNEL AUTHORIZED TO ENFORCE CRIMINAL PROVISIONS OF THE CODE OF ORDINANCES; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00); AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Rowlett finds that it is an offense under state law for a person issued a citation by sworn law enforcement personnel or lawfully released from custody on a written promise to appear in court to fail to appear in Municipal Court to answer the charges; and

WHEREAS, the state law offenses associated with a defendant's failure to appear in court after having been cited to appear apply to citations issued by sworn law enforcement officers but do not apply in cases where citations are issued by code enforcement or animal control officials; and

WHEREAS, City personnel who have similar law enforcement authority as police and other duly sworn peace officers in class C misdemeanor offenses under the Code of Ordinances should operate under a similar framework; and

WHEREAS, to reduce the backlog of cases involving code enforcement and animal control ordinance violations, the Council finds it necessary and appropriate to discourage defendants from failing to appear in municipal court after having been cited to appear.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS:

Section 1: That Chapter 38, "Municipal Court," of the Code of Ordinances, City of Rowlett, Texas, be and is hereby amended by amending Section 38-10, to revise the heading of Section 38-10, add a new subsection (a), renumber the existing provisions as subsection (b), and correct the reference to V.T.C.A., Penal Code §38.11 to §38.10 in subsection (b), such that Section 38-10 shall read as follows:

"CHAPTER 38

MUNICIPAL COURT

Sec. 38-10 Failure to appear; warrants and fees.

- a) A person commits an offense if that person is issued a citation by City personnel authorized to enforce criminal provisions of the Code of Ordinances and knowingly or intentionally fails to appear and enter a plea in the Municipal Court on or before the date set forth in the citation, which date shall not be less than ten (10) days following service of the citation. A plea of guilty, not guilty or no contest may be submitted in person, by mail, or by other method acceptable to the Court.
- b) A person commits an offense if that person makes a written promise to appear in the Municipal Court by signing a written notice prepared by the clerk of the Municipal Court, and subsequently fails to appear as required by the written notice. A person may comply with a written promise to appear in court by an appearance of counsel. This offense applies regardless of the disposition of the charge on which the person was before the court.
- c) When the Judge of the Municipal Court of Record No. 1 of Rowlett, Texas, shall cause to be issued any warrant of arrest for a defendant in any criminal action prosecuted in the municipal court or for the arrest of any witness who has failed to appear in such cause as required by a summons or subpoena previously issued in any such cause prosecuted in the municipal court, the clerk of the municipal court shall be authorized, in addition to such fines as may be levied by the judge as a result of such criminal action, to assess a special expense, not to exceed an amount established by resolution of the city council for the issuance and service of a warrant of arrest for any offense under §38.10 of the Texas Penal Code, §543.009 of the Texas Transportation Code, or a special expense prescribed in the Texas Code of Criminal Procedure, Section 102.011, for the issuance and service of a warrant of arrest, after due notice, for a defendant failing to appear after having given a personal bond, such special expense not to exceed the amount established by resolution of the city council. Any such expenses shall be paid, along with the applicable fine and court costs, into the city treasury for the use and benefit of the city, and the court costs and special expenses by execution against the property of the defendant, or imprisonment of the defendant, until such time as all costs described in this section have been paid."

Section 2: That all provisions of the ordinances of the City of Rowlett, Texas, in conflict with the provisions of this ordinance be and the same are hereby repealed, and all other provisions of the ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

Section 3: That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision hereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

Section 4: Any person, firm or corporation violating any of the provisions of this ordinance or the provisions of the Code of Ordinances of the City of Rowlett, Texas, as amended hereby, shall be deemed guilty of a misdemeanor and upon conviction, shall be subject to a fine not to exceed the sum of Five Hundred dollars (\$500.00) for each offense.


Section 5: This ordinance shall take effect immediately from and after its passage and the publication of its caption, as the law and charter in such cases provides.

At a meeting of the City Council on December 17, 2013 this Ordinance be adopted. The motion carried by the following vote:

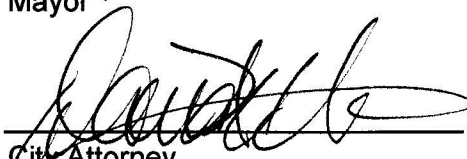
Ayes: 5 Mayor Gottel, Mayor Pro Tem Kilgore, Councilmember Dana-Bashian, Councilmember Pankratz and Councilmember Bobbitt

Absent: 2 Deputy Mayor Pro Tem Gallops and Councilmember Phillips

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Approved by 
Mayor

Date December 17, 2013

Approved to form by 
City Attorney

Date December 17, 2013

Certified by 
City Secretary

Date December 17, 2013
